

LAW OFFICE OF P. RANDALL NOAH
P. RANDALL NOAH (SBN 136452)
2 Theatre Square, Suite 234
Orinda, CA 94563
Tel. (925) 253-5540
Fax (925) 253-5542

Attorney for Plaintiff
GINGER Y. SEITLES

RIMAC MARTIN, P.C.

JOSEPH M. RIMAC (SBN 72381)
ANNA M. MARTIN (SBN 154279)
amartin@rimacmartin.com
1051 Divisadero Street
San Francisco, California 94115
Telephone (415) 561-8440
Facsimile (415) 561-8430

Attorneys for Defendants

UNUMPROVIDENT CORPORATION and
UNUM LIFE INSURANCE COMPANY OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

GINGER SEITLES,

1

CIV. S-04-02725 FCD DAD

)

) STIPULATION AND ORDER THEREON
) TO VACATE PRETRIAL CONFERENCE,
) PRETRIAL REQUIREMENTS AND TO
) SET A BRIEFING SCHEDULE FOR
) MOTIONS PURSUANT TO FEDERAL
) RULES OF CIVIL PROCEDURE, RULE 52

1

1

1

1

IT IS HEREBY REQUESTED AND STIPULATED by the parties hereto, through their respective attorneys of record, as follows:

The parties hereby respectfully request that the Court vacate the Pre-Trial Conference scheduled for August 7, 2009. The parties further request that the Court waive the pretrial requirements of the local rules of this Court and FRCP 16. Finally, the parties request that the Court set a briefing schedule so that the case can be decided on cross motions pursuant to Federal Rules of Civil Procedure, Rule 52.

8 Good cause exist for the parties' request. The parties have stipulated and the Court has
9 so ordered that this matter is governed by the Employee Retirement Income Security Act of
10 1974. (Dkt. entry # 26). Defendant asserts that the trial of this action should be conducted with
11 the Court's review of the administrative record supplemented by briefing and argument of
12 counsel. The only documentary evidence to be presented is and will be in the Administrative
13 Record. The parties, therefore, request that this matter be decided pursuant to motions for
14 judgment under FRCP Rule 52. *See, Kearney v. Standard Ins. Co.*, 175 F.3d 1084, 1094-1095
15 (9th Cir. 1999) (*en banc*). *Nolan v. Heald College*, 551 F.3d 1148, 1154 (9th Cir. 2009). As
16 such, defendants respectfully request that the Court set the following briefing schedule to allow
17 the simultaneous exchange of opening briefs, followed by the simultaneous exchange of
18 response briefs:

20 July 31, 2009 Parties to file and serve opening briefs and lodge a copy of the
21 administrative record with the Court.

September 1, 2009 Parties to file and serve response briefs

25 September 15, 2009 Bench trial/hearing conducted by the Court's review of the
26 administrative record, supplemented by the legal briefing and
argument of counsel pursuant to FRCP, Rule 52.

111

ORDER

The Pre-Trial Conference scheduled for August 7, 2009 is vacated.

The Court orders the following briefing schedule:

July 31, 2009 Parties to file and serve opening briefs and lodge a copy of the administrative record with the Court.

September 4, 2009 Parties to file and serve response briefs.

September 18, 2009 10:00 a.m. Bench trial/hearing conducted by the Court's review of the administrative record, supplemented by the legal briefing and argument of counsel pursuant to FRCP, Rule 52.

IT IS SO ORDERED.

Dated: June 10, 2009

Paul C. Brumley

FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE